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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/541,848	07/12/2005	Noriaki Oku	Q88921	6754
23373 SUGHRUE MI	7590 02/28/201 <b>ON.</b> PLLC	EXAMINER		
2100 PENNSY	LVANIA AVENUE, N	DANG, THUAN D		
SUITE 800 WASHINGTON, DC 20037			ART UNIT	PAPER NUMBER
			1771	
			NOTIFICATION DATE	DELIVERY MODE
			02/28/2011	ELECTRONIC

## Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

sughrue@sughrue.com PPROCESSING@SUGHRUE.COM USPTO@SUGHRUE.COM

## Advisory Action Before the Filing of an Appeal Brief

Application No.	Applicant(s)	
10/541,848	OKU ET AL.	
Examiner	Art Unit	
THUAN D. DANG	1797	

NOTICE OF APPEAL  □ The Notice of Appeal was filed on A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).  MENDMENTS  3. □ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because (a) □ They raise new issues that would require further consideration and/or search (see NOTE below); (b) □ They raise the issue of new matter (see NOTE below); (c) □ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or (d) □ They present additional claims without canceling a corresponding number of finally rejected claims.  NOTE: (See 37 CFR 1.116 and 41.33(a)). 4. □ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324). 5. □ Newly proposed or amended claim(s)		THUAN D. DANG	1797	
<ul> <li>I. Simple reply was filled after a final rejection, but prior to or on the same day as filling a Notice of Appeal. To avoid abandomment of this application, application in condition for allowance; (2) a Notice of Appeal (with application, or other evidence) which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following filme periods:</li> <li>a) The period for reply expires 2 months from the mailing date of the final rejection.</li> <li>b) The period for reply expires 0::(1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no evert, however, will the statutory period for reply expires than SIX MONTHS from the mailing date of the final rejection.</li> <li>Examiner Note: If box 1 is checked, check either box (a) or (b). CNLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FIRM REJECTION. See MFEP 708.07(f).</li> <li>Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee named 57 CFR 1.17(a) is calculated form; (1) the expiration date of the derivened statutory period for reply erigically set in the final Cilico action; or (2) as may reduce any examed patent term adjustment. See 37 CFR 1.73(b).</li> <li>CYFR 1.17(a) is calculated from; (1) the expiration date of the derivened statutory period for reply erigically set in the final Cilico action; or (2) as may reduce any examed patent term adjustment. See 37 CFR 1.137(b).</li> <li>CYTE A CEPEAL.</li> <li>The Notice of Appeal was filed on A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal was been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).<td>The MAILING DATE of this communication appe</td><td>ars on the cover sheet with the o</td><td>correspondence add</td><td>ress</td></li></ul>	The MAILING DATE of this communication appe	ars on the cover sheet with the o	correspondence add	ress
<ul> <li>I. Simple repty was filled after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandomment of this application, application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The repty must be filled within one of the following repiction:</li></ul>	THE REPLY FILED 22 February 2011 FAILS TO PLACE THIS.	APPLICATION IN CONDITION FO	R ALLOWANCE.	
a)	<ol> <li>The reply was filed after a final rejection, but prior to or on application, applicant must timely file one of the following application in condition for allowance; (2) a Notice of Appe for Continued Examination (RCE) in compliance with 37 C</li> </ol>	the same day as filing a Notice of a replies: (1) an amendment, affidavited (with appeal fee) in compliance	Appeal. To avoid abar t, or other evidence, w with 37 CFR 41.31; or	hich places the (3) a Request
Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee nance been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked, Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed.  NOTICE OF APPEAL  2. The Notice of Appeal was filed on	a) The period for reply expires 3 months from the mailing date b) The period for reply expires on: (1) the mailing date of this A no event, however, will the statutory period for reply expire la Examiner Note: If box 1 is checked, check either box (a) or (	dvisory Action, or (2) the date set forth tter than SIX MONTHS from the mailing b). ONLY CHECK BOX (b) WHEN THE	g date of the final rejection	n.
filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).  AMENDMENTS  3.  The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  (a)  They raise new issues that would require further consideration and/or search (see NOTE below);  (b)  They raise the issue of new matter (see NOTE below);  (c)  They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  (d)  They are not deemed to place the application in better form for appeal by materially rejected claims.  NOTE:  (See 37 CFR 1.116 and 41.33(a)).  4.  The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  5.  Applicant's reply has overcome the following rejection(s):  would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  7.  For purposes of appeal, the proposed amendment(s): a)  will not be entered, or b)  will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  The status of the claim(s) is (or will be) as follows:  Claim(s) allowed:  Claim(s) allowed:  Claim(s) allowed:  Claim(s) allowed:  Claim(s) objected to:  Claim(s) allowed:  See 37 CFR 1.116(e).  AFFIDANT OR OTHER EVIDENCE  3.  The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant fails to provide a showing of good and sufficient reasons why the affidavit or other evidence is entered. An explanation of t	have been filed is the date for purposes of determining the period of ext under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the s	ension and the corresponding amount of the corresponding a	of the fee. The appropria nally set in the final Offic	ate extension fee e action; or (2) as
(a)  They raise new issues that would require further consideration and/or search (see NOTE below); (b)  They raise the issue of new matter (see NOTE below); (c)  They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or (d)  They present additional claims without canceling a corresponding number of finally rejected claims.  NOTE:	filing the Notice of Appeal (37 CFR 41.37(a)), or any exter	nsion thereof (37 CFR 41.37(e)), to	avoid dismissal of the	
(d)	<ul> <li>(a) ☐ They raise new issues that would require further cor</li> <li>(b) ☐ They raise the issue of new matter (see NOTE belown)</li> <li>(c) ☐ They are not deemed to place the application in better</li> </ul>	nsideration and/or search (see NOT N);	ΓE below);	
5.  Applicant's reply has overcome the following rejection(s):	(d) They present additional claims without canceling a composition NOTE: (See 37 CFR 1.116 and 41.33(a)).			
non-allowable claim(s).  7. For purposes of appeal, the proposed amendment(s): a) \( \) will not be entered, or b) \( \) will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  The status of the claim(s) is (or will be) as follows:  Claim(s) allowed:  Claim(s) objected to:  Claim(s) objected to:  Claim(s) withdrawn from consideration:  Claim(s) withdrawn from consideration:  AFFIDAVIT OR OTHER EVIDENCE  3. \( \) The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  3. \( \) The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  10. \( \) The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.  REQUEST FOR RECONSIDERATION/OTHER  11. \( \) The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  a similar argument has been responded by examiner in previous office actions.  12. \( \) Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s).  /THUAN D DANG/	5. Applicant's reply has overcome the following rejection(s):	·		·
how the new or amended claims would be rejected is provided below or appended.  The status of the claim(s) is (or will be) as follows:  Claim(s) allowed:  Claim(s) objected to:  Claim(s) rejected: 1 and 3-5.  Claim(s) withdrawn from consideration:  AFFIDAVIT OR OTHER EVIDENCE  B. The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  D. The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  10. The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.  REQUEST FOR RECONSIDERATION/OTHER  11. The request for reconsideration has been considered but does NOT place the application in condition for allowance because: a similar argument has been responded by examiner in previous office actions.  12. Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s).  /THUAN D DANG/	non-allowable claim(s).	·	•	_
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because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  D. The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.  REQUEST FOR RECONSIDERATION/OTHER  11. The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  a similar argument has been responded by examiner in previous office actions.  12. Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s).  /THUAN D DANG/	<u> </u>	l c		
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